IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 22ND MARCH, 2007 / 1ST CHAITHRA, 1929

WP(C).No. 13322 of 2006(J)

PETITIONER:

M.NAZIMUDDIN,
SHYNA COTTAGE, THYCAUD,
VENJARAMOODU P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.S.ABDUL SALAM

RESPONDENTS:

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1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, KERALA, THIRUVANANTHAPURAM.

2. THE BOARD OF DIRECTORS OF THE VENJARAMOOD CO-OPERATIVE RUBBER MARKETING SOCIETY LTD., NO:T.299, VENJARAMOOD P.O., THIRUVANANTHAPURAM DISTRICT, REP. BY ITS PRESIDENT.

3. THE VENJARAMOOD CO-OPERATIVE RUBBER MARKETING SOCIETY LTD. NO:T.299, VENJARAMOOD P.O., THIRUVANANTHAPURAM, REP. BY ITS MANAGING DIRECTOR.

4. THE SECRETARY, (DEPARTMENT OF CO-OPERATION) TO THE GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.

5. RAVIKUMAR,
ASST. MANAGING DIRECTOR,
VENJARAMOODU CO-OPERATIVE RUBBER MARKETING SOCIETY LTD.NO.T.299, VENJARAMOODU P.O., TRIVANDRUM DISTRICT.

BY ADV. SRI.T.R.HARIKUMAR
SRI.V.G.ARUN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON 22/03/2007 DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.13322 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the order dtd.17.10.89 passed by the Joint Registrar of Co-operative Societies, Thiruvananthapuram.

Ext.P2: Copy of the order dtd.18.10.90 passed by the Joint Registrar.

Ext.P3: Copy of the judgment in O.P.No.6611 of 1989 dtd.4.8.89.

Ext.P4: Copy of order dtd.25.3.98 passed by the Joint Registrar.

Ext.P5: Copy of Govt.Order dtd.22.2.99 passed by the Government.

Ext.P6: Copy of judgment in W.A.No.673/97 dtd.1.8.97.

Ext.P7: Copy of judgment in O.P.No.6397/99 dtd.11.8.2003.

Ext.P8: Copy of judgment in W.A.No.1989/2003 dtd.6.2.2004 filed by the Society against judgment in O.P.No.6397/99.

Ext.P9: Copy of order in S.L.P.No.6279/2004 dtd.8.4.2004.

Ext.P10: Copy of the judgment in W.P.(C) No.35110/2003 dtd.8.6.2004.

Ext.P11: Copy of the order of the first respondent EM/2/527 dtd.4.11.2004.

Ext.P12: Copy of Govt.Order dated 6.7.2005 by the fourth respondent-Government.

Ext.P13: Copy of the medical certificate issued by the Asst.Surgeon, Public Health Centre, Kanyakulangara dtd.1.7.86.

Ext.P14: Copy of the order dtd.22.9.90 passed by the Joint Registrar, Trivandrum.

Ext.P15: Copy of the Cash Receipt No.959 dtd.31.8.2006 issued by Secretary, Venjaramoodu Housing Co-operative Society.

Ext.P16: Copy of the Certificate of R.C.Book dtd.5.5.2005.

Ext.P17: Copy of the sale deed No.1173 of 1998 issued by the S.R.O., Vamanapuram.

Ext.P18: Copy of the Sale Deed No.1278/98 issued by the S.R.O., Vamanapuram.

RESPONDENTS' EXHIBITS:

Ext.R3(a): Copy of the approved Feeder Category Rules dtd.9.1.87.

Ext.R3(b): Copy of the statement filed by the society before the Registrar of Co-operative Societies dtd.25.8.2004.

Ext.R3(c): Copy of the statement filed by the Society before the Governemnt dtd.7.2.2005.

Ext.R3(d): Copy of resolution No.2 dtd.13.12.2004.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO.13322 OF 2006

Dated this the day of March, 2007

J U D G M E N T

An employee of a Co-operative Society, whose father has gifted his land for establishment of the society, has approached this Court with this writ petition against the uncharitable stand of the society as also the statutory authorities in denying him the fruits of a long drawn out litigation, in which the employee succeeded in full, on technical grounds.

2. The petitioner entered service of the third respondent-Society as Grader-cum-Clerk on 7.8.1972. In 1982, he passed Junior Diploma course in Co-operation which made him eligible for promotion to a higher post as the senior most staff in the Society for which there were vacancies also. Since the Society did not consider the legitimate claim of the petitioner for promotion, he approached the Joint Registrar, who, in accordance with the direction of this Court in O.P.No.6611 of 1989, passed

Ext.P1 order dated 17.10.1989 holding that the petitioner is eligible for promotion and directed the Board of Directors of the Society to consider his claim for promotion. In view of the failure of the Society to promote the petitioner, on his representation, the Joint Registrar passed Ext.P2 order dated 18.10.1990 directing the Society to appoint him as Junior Clerk with retrospective effect from October 1982 and to give him consequential promotions in higher posts also. Since the Society did not comply with Exts.P1 and P2, the petitioner filed O.P.No.1980 of 1990 seeking appropriate directions on his promotion.

3. While that original petition was pending, the Society initiated disciplinary action against the petitioner and dismissed him from service. As per the direction of this Court in O.P.No.5879 of 1990, the Joint Registrar considered the complaint of the petitioner against the disciplinary action and set aside the order of dismissal. O.P.No.9718 of 1990 filed by the Society against the

order of the Joint Registrar was dismissed by a learned single Judge of this court and O.P.No.1980 of 1990 filed by the petitioner seeking promotion was allowed. Against those judgments, the Society filed W.A.Nos.674/97 and 673/97 respectively in which by Ext.P6 judgment the Division Bench directed the Joint Registrar to reconsider the matter. Pursuant thereto, the Joint Registrar passed Ext.P4 order dated 25.3.1998 holding in favour of the petitioner on the question of eligibility for promotion and disciplinary action. Accordingly, the resolution passed by the Society was rescinded and the Managing Committee of the Society was directed to reinstate the petitioner forthwith. It was further held that "*the entire period of dismissal is treated as period of service*".

4. The appeal filed by the Society against Ext.P4 order was dismissed by the Government by Ext.P5 order dated 22.2.1999. The Society challenged Exts.P4 and P5 in O.P.No.6397 of 1999 which was dismissed by a

learned single Judge by Ext.P7 judgment dated 11.8.2003. By Ext.P8 judgment dated 6.2.2004, W.A.No.1989/2003 filed by the society against Ext.P7 was also dismissed. S.L.P.(Civil) No.6279/2004 filed by the Society was dismissed by the Supreme Court by Ext.P9 order dated 8.4.2004. Thus Ext.P4 order of the Joint Registrar became final.

5. Pursuant to the same, the petitioner was reinstated in service. But, the Society took the stand that he is not entitled to any back wages or monetary benefits and therefore, petitioner had to again approach this Court by filing W.P.(C) No.35110 of 2003 in which by Ext.P10 judgment dated 8.6.2004, this Court held that there is no justification on the part of the Society in withholding the other benefits. However, recording the submission of the learned Government Pleader that appropriate follow up action would be taken and steps would be finalised within three months, the writ petition was closed.

6. But, what followed was not exactly what the petitioner expected. The Registrar by Ext.P11 order dated 4.11.2004 held that the petitioner is entitled to back wages and arrears only from the date of his reinstatement, while directing grant of due promotions. The appeal filed by the petitioner against denial of back wages was dismissed by the Government of Kerala by Ext.P12 order dated 6.7.2005.

7. Aggrieved by Exts.P11 and P12 orders, the petitioner has filed this writ petition seeking the following reliefs:-

> "(a) to issue a writ of mandamus or other appropriate writ, direction or order directing the first and the third respondents to count back wages from the date of termination till the date of reinstatement and direct to pay it to the petitioner forthwith,
>
> (b) to issue a writ of certiorari or other appropriate writ, direction or order to respondents 1 to 4 calling for the records relating to the denial of back wages and other monitory benefits and the records relating to the service of the petitioner and the proceedings with regard to the denial of promotion and quashing

> the same to the extent objected in the writ petition.
>
> (c) to direct respondents 1 to 3 to promote the petitioner to the post of Managing Director in the Society in view of the observation contained in the orders of Exts.P1 and P2.
>
> (d) to declare that Exts.P11 and P12 orders passed by the first and fourth respondents are against the observations contained in Ext.P4 order and Exts.P7 and P8 judgments and quashing the same to the extent objected in the writ petition.
>
> (e) to award the cost of this petitioner to the petitioner and
>
> (f) to grant such other reliefs as this Hon'ble Court may deem fit and proper to grant in the circumstances of this case."

8. The third respondent-Society and its Board of Directors, namely, the second respondent herein together have filed a counter affidavit strongly refuting the claim of the petitioner seeking payment of back wages for the period when the petitioner was kept out of service pursuant to the order of dismissal in disciplinary proceedings. According to them, in Ext.P4, there is no direction to pay back wages or other monetary benefits to the petitioner. Therefore, according to them, the

principle of '*no work, no pay*' is applicable in this case, especially since no authority has directed payment of back wages or other monetary benefits to the petitioner. They would also set up a case that his past service was not also satisfactory, he having been punished several times. They also cite decisions of the Supreme Court which lay down that on reinstatement, payment of back wages is not automatic and in appropriate cases, back wages can be denied which alone has been done in this case. After this writ petition was taken for hearing, as the hearing spilled over to several days, the respondents 2 and 3 have filed an additional counter affidavit dated 5.3.2007 raising a contention that during the relevant period, the petitioner was doing business as a wholesale dealer in Nirapara Rice and Rice products in his wife's name and that he was also a dealer of AVT tea and a successful Estate Broker. They point out that he owns an Opel Astra car. Their attempt is to show that during the period he was kept out of service, he was gainfully

employed.

9. The petitioner has filed two reply affidavits, one to the original counter affidavit of respondents 2 and 3 and the other to the additional counter affidavit, in which while admitting that he had in fact purchased a 1996 model Opel Astra car in 2005, which was after his reinstatement in service, he has strongly refuted the other allegations and given details of his indebtedness which he had to incur for sustaining himself and his family while he was out of service. He also avers that he was compelled to sell two of his properties to pay off his debts. He would submit that going by Ext.P4, on reinstatement he is entitled to all benefits as if he was in service during the period between his dismissal and reinstatement.

10. After hearing arguments, I had suggested a compromise to the parties by paying a lump sum. The counsel for respondents 2 and 3, after consulting his client, reported that they are willing to pay only rupees

one lakh, which offer was not acceptable to the petitioner and I also think that the said amount was palpably inadequate considering the sufferings of the petitioner for 14 long years, during which period he was kept out of service. Therefore, the matter was heard on merits.

11. I have considered the rival pleadings and arguments advanced at the bar in detail.

12. Before dealing with the case on merits, I have to dispose of a technical contention raised by the counsel for the respondent that the petitioner has now an alternate remedy by way of filing an application before the Arbitration Court under Section 69 of the Kerala Co-operative Societies Act in view of the new sub-section 2 (d) thereof. I am not impressed by this contention for two reasons. First is that the petitioner had in fact availed of a remedy by way of approaching the Registrar and the Government and it is because of adverse decisions therein that he has now approached this Court. Further, I am not inclined to relegate the petitioner to

another round of long drawn out litigation from the beginning after the agony which he has undergone for a period of more than 15 years. I am satisfied that justice demands a quietus to the dispute by a decision on merits at the hands of this Court. Therefore, I am inclined to deal with his claim on merits in this writ petition itself.

13. Coming to the merits of the issue what I have to first consider is the effect of Ext.P4 order itself. Does Ext.P4 contemplate payment of back wages also, on his reinstatement, for the period during which he was kept out of service, namely from the date of his dismissal to the date of his reinstatement, is the question to be decided in this writ petition.

14. Before going into that let me see what the Registrar has decided in Ext.P11. The operative portion of Ext.P11 reads thus:-

> "1. Sri.M.Nazimuddin, employee of the Vejarammood Rubber Marketing Co-operative Society Ltd No.T.269 is entitled for back wages and arrears from the date of reinstatement after fixing his pay

> notionally from the date of entry in service without any break of service consequent on the invalidation of the said dismissal order by the Joint Registrar of Co-operative Societies (General), Thiruvananthapuram.
>
> 2. He is also entitled to get consequential promotions before his juniors from the date of acquiring the J.D.C.qualification and his pay should notionally be arrived as if he was in service of the society. Resultant salary arrears and the other monitory benefits in the promoted posts should be disbursed to him from the date of his reinstatement."

15. I am constrained to observe that the first part of the order is, to say the least, meaningless. What has been granted by Ext.P11 is back wages and arrears from the date of reinstatement. Where is the question of 'back wages' after reinstatement? After reinstatement, the petitioner would be entitled to wages because he has started working from the date of reinstatement. That is no concession. That is not something which relates to back wages on the basis of Ext.P4 order. As such as far as the petitioner's claim for back wages is concerned, the

first part of Ext.P11 is no order at all. In fact, the Registrar in paragraph 17 of Ext.P11, first entered a finding as follows:-

> "The entire period of dismissal was treated as period of service in the said order. Since the order has attained finality, he is entitled for service and monitary (sic for monetary)relief."
>
> (emphasis supplied)

16. After entering a finding regarding his eligibility for monetary relief, the same is denied stating thus:

> "*On considering the aspect that no work, no pay and considering the financial interest of the Venjaramood Rubber Marketing Co-operative Society, Sri.Nazimuddin is to be given monitory (sic for monetary) benefits from the date of his reinstatement in service, that is with effect from 6.5.2004.*"

17. I am of opinion that this is no reasoning at all. On the contrary, the Registrar is contradicting himself. After finding the petitioner eligible for monetary relief, what is being given is a relief which the petitioner is entitled to even without the order of the Registrar. The

principle of '*no work, no pay*' cannot be invoked in this case, since if such a contention is accepted, an unscrupulous employer can easily escape from the consequences of his misdeeds, by dismissing an employee whom he does not like, keep him out of service for a few years and reinstate him on orders of court without any damage to himself, which would be total injustice and against the basic principles of industrial and service jurisprudence.

18. Both sides have cited decisions before me in support of their respective cases. The decisions cited by the petitioner are 11 in number which are:

1. 1999(2) SLR 634 (H.S.Chandra Shekara Chari v. The Divisional Controller, K.S.R.T.C.)
2. 2001(89) FLR 918 (The Management, M/s.Birla Textiles v. Presiding Officer, Labour Court-I, Delhi)
3. 2001(89) FLR 118 (Sitapur Eye Hospital, Faizabad v. Industrial Tribunal II, Lucknow)
4. 2000(2) LLJ 219 (Gulam Ahmad Paul v. State of Jammu and Kashmir)
5. 2000(86) FLR 823 (Sayyed Anwar v. Divisional Controller, M.S.R.T.C., Aurangabad)

6. 1988(1) SLR 481 (The Maharaja Sayajirao University of Baroda v. Sri.R.S.Thakkar)

7. 2006(2) KLT 112 (Commissioner of Police v. Abida Beevi)

8. 1996(73) FLR 1649 (M.P.State Co-operative Marketing Federation Ltd., Bhopal v. P.O.Labour Court, Raipur)

9. 1996(2) LLN 137 (Singareni Collieries Company Ltd. v. S.K.Anwar Basha)

10. 2000(86)FLR 784 (Gulam Ahmad Paul v. State of Jammu & Kashmir)

11. 1984(Supp) SCC 551 (Abhinash Chandra Gautam v. Union Territory of Tripura)

These decisions would support the case of the petitioner that once charges are not proved, the employee is entitled not only to reinstatement but also to back wages for the period when he was kept out of service.

19. The counsel for respondents 2 and 3 has cited the following decisions in support of his case that payment of back wages is not automatic on reinstatement, but the authority ordering reinstatement can in appropriate circumstances deny the whole or part of the back wages.

1. AIR 2006 SC 3018 (U.P.S.R.T.C.v. Mitthu Singh)

2. (2003) 2 SCC 212 (A.P.S.R.T.C. v. S.Narsagoud)

3. (2006) 5 SCC 173(Municipal Council, Sujanpur v.Surinder Kumar)

4. (2005) 7 SCC 406 (Rajasthan.S.R.T.C. v. Shyam Bihari Lal Gupta)

5. (2005) 5 SCC 591(General Manager, Haryana Roadways v. Rudhan Singh)

6. JT 2007(2) SC 265 (North East Karnataka Road Transport Corpn. v. M.Nagangouda)

20. I am of opinion that the principles regarding awarding of back wages have been succinctly stated by the Supreme Court in a recent decision of **General Manager, Haryana Roadways v. Rudhan Singh** ((2005)5 SCC 591), although that was a case of wrongful retrenchment under Section 25F of the Industrial Disputes Act. Paragraph 8 of the decision lays down thus:

> "8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of

the vacancy or inviting applications from the employment exchange, nature of appointment, namely, whether ad hoc, short terms, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. One of the important factors, which has to be taken into consideration, is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is ofter quite large would be wholly inappropriate. Another important factor, which requires to be taken into consideration is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily-wage employment though it may be for 240 days in a calendar year.

21. But I feel that there is no occasion for me to apply these principles in this case because those are principles to be applied by the authority who orders reinstatement while deciding whether such reinstatement should be followed by back wages in full or in part. Here that stage is long over on passing Ext.P4 order, which has become final. In fact, two of the decisions cited by counsel for respondents 2 and 3, namely, A.P.S.R.T.C.'s case and Rajastan State Road Transport Corporation's case (cited supra) which holds that claim for back wages is not enforceable unless directed in the order of reinstatement, are relevant in this context. Therefore, what I have to decide in this case is as to whether going by Ext.P4 order, the petitioner is entitled to claim back wages, and not whether now the petitioner can be denied back wages in spite of Ext.P4.

22. The operative portion of Ext.P4 reads thus:

> "In the circumstances mentioned above, I do hereby rescind under rule 176 of the Kerala Co-operative societies

> Rules 1969 the entire decisions of the meeting Nos.1,2 and 3 dated respectively 29.9.89, 23.10.89 and 16.5.90 of the sub-committee constituted for disciplinary action against Sri.Nazimudding, Junior Clerk of Venjaramood Rubber Marketing Society Ltd.No.T 299 and also rescind the resolution of the Appellate Forum (Committee) decision No.2 dated 6.8.1990 which leads to the dismissal of Sri.Nazimudding from the service of the society under rule 176 of the Kerala Co-operative Societies Rules,1969.
>
> Consequent on the rescinding of decisions (resolutions) relating to the dismissal of Sri.Nazimudding, the managing committee shall reinstate the employee in the Society forthwith. The entire period of dismissal is treated as period of service". (emphasis supplied)

On the question of back wages, the underlined sentence is most crucial. By Ext.P4, which has become final by confirmation of the Supreme Court, it has been directed that the entire period of dismissal is treated as service. In Ext.P11 order, the Registrar also understood the same correctly that the petitioner is entitled for service and monetary relief. This monetary relief can be nothing but the monetary benefits due to the petitioner considering

the period the petitioner was out of service as service. No other meaning whatsoever can be attributed to those words also. Since respondents 2 and 3 have not succeeded in getting Ext.P4 set aside to any extent and the same has become final, they are bound by it.

23. In resolving this issue, I have the benefit of the view of another Judge of this Court in Ext.P10 judgment rendered in W.P(C) No.35110 of 2003 filed by the petitioner for direction to implement Ext.P4. The judgment reads thus:

> "In view of the finality that had been attained in respect of Ext.P9 order, the petitioner has been reinstated in service. But the benefits of back wages and monitory reliefs are yet to be extended to the petitioner, it is submitted. Petitioner refers to Ext.P4 order of the Joint Registrar of Co-operative Societies,Thiruvananthapuram and requests that this Court may issue directions to expedite the consequential steps for realisation of the dues and payment thereof.
>
> The respondent Society had been heard in the matter. In view of the circumstances, the matter has attained a finality. There is no justification in

> withholding the other benefits, which are due to the petitioner. Government Pleader submits that appropriate follow up action on Ext.P12 will be taken and steps will be finalised within a period of two months from the date of receipt of a copy of this judgment. Recording the submission made by the learned Government Pleader, the writ petition is closed." (emphasis supplied)

The underlined portions make it abundantly clear that what has been directed is payment of back wages and other monetary benefits arising from the reinstatement. That decision has not been challenged by respondents 2 and 3. But while passing Exts.P11 and P12 orders, the Registrar and the Government completely lost sight of the said observations and misdirected themselves thinking that they have been directed to decide the issue regarding eligibility of the petitioner for back wages.

24. My reading of Ext.P4 is also not any the different. The sentence '*the entire period of dismissal is treated as period of service*' can mean only that the petitioner is entitled to all service benefits for the period

from the date of his dismissal till his date of reinstatement. I have no doubt in my mind that no other interpretation can be attributed to those words by any stretch of imagination. Therefore, going by Ext.P4 itself the petitioner is entitled to full back wages and all other service benefits including seniority, promotion and other monetary benefits treating that period also as service without interruption by the invalid dismissal from service.

25. The contentions of respondents 2 and 3 that the petitioner's service record is not clean, he having been punished for misconducts several times, has neither been proved by producing documents nor is it relevant now because such a contention ought to have been raised before the Joint Registrar who passed Ext.P4 order or before this Court and the Supreme Court while challenging Ext.P4. Since Ext.P4 has been confirmed as such, even up to the Supreme Court, such a contention is not available to respondents 2 and 3 in the present

proceedings since Ext.P4 is fully binding on them as such, which cannot now be modified by me, which if I did would amount to reviewing judgments of this Court and the Supreme Court.

26. The same logic applies to the contention of respondents 2 and 3 that the petitioner was alternately employed during the period when he was out of service consequent on the dismissal. Not only has the respondents 2 and 3 made any efforts to supply any proof of the same, the stage for raising such a contention is long over since Ext.P4 has become final. The decisions cited by both parties, both that of the Supreme Court and this Court, on the onus of proof in proving gainful employment is also not at all relevant. Once the petitioner has on oath denied the allegation, which is the only way he can discharge his burden of proving a negative fact, then it is for the respondents 2 and 3 to prove otherwise by cogent material, in which direction the respondents 2 and 3 have not made any effort

whatsoever. Therefore, there is no merit in that contention of respondents 2 and 3 also.

27. In the result, I have absolutely no hesitation to hold that by virtue of Ext.P4 decision, the petitioner has become entitled to all service benefits including back wages, other monetary benefits, seniority, promotion etc. treating the period from the date of his dismissal (16.5.1990 as stated in Ext.P5) till his reinstatement (6.5.2004 as stated in Ext.P11) as period of service without interruption by the dismissal. I do so. All monetary benefits arising therefrom including wages for the period shall be computed and disbursed to the petitioner within one month from the date of receipt of a copy of this judgment.

28. Regarding the prayer of the petitioner for promotion, the same has been granted to the petitioner by Ext.P11, which has become final, since respondents 2 and 3 have not challenged the same. Orders promoting the petitioner as directed and arrears of monetary

benefits arising therefrom shall be paid to him as directed in Ext.P11 within one month from the date of receipt of a copy of this judgment.

29. Because of the recalcitrant attitude of respondents 2 and 3, I was inclined to order costs also, but exercising restraint I refrain from doing so.

The writ petition is allowed as above.

S. SIRI JAGAN,
Judge

Mbs/

K.THANKAPPAN, J

Crl.Appeal NO. OF 2001

J U D G M E N T

DATED:13-02-2007